IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2006

CORAM:

THE HONOURABLE MR.JUSTICE A. KULASEKARAN

WP.No.20982/2006
MP.No.1/2006

A. Selvaraj
Petitioner

vs.

1.The Member Secretary
Chennai Metropolitan Development Authority
Gandhi Irwin Road, Egmore, Chennai-8

2.The Chief Executive Officer
Chennai Metropolitan Development Authority
Gandhi Irwin Road, Egmore, Chennai-8

3.The Chief Administrative Officer
Market Management Committee
Koyambedu Wholesale Market Complex
Koyambedu, Chennai Respondents

Prayer:- These Writ Petitions are filed under Art.226 of the Constitution of India to issue a Writ of Mandamus to direct the respondents not to dispossess the Petitioner from the premises bearing N-124, Periyar Vegetable Market, Koyambedu, Chennai-92 without following due process of law as contemplated under the Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act, 1975.

For Petitioner : Mr.Su.Srinivasan

For Respondents: Mr. J.Ravindran-CMDA

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O R D E R

1.The Petitioner is the tenant in respect of the premises bearing No.N-124, Periyar Vegetable Market, Koyambedu, Chennai-92. The 3rd respondent granted lease originally for a period of 11 months under proceedings dated 24.1.2002 and the lease period was renewed periodically for every 11 months and it came to an end on 10.10.2005. Admittedly, the lease period is not renewed after 10.10.2005. However, two demand drafts for a sum of Rs.1,00,000/- dated 9.9.2005 and for Rs.2,00,000/- dated 22.9.2005 were sent by the Petitioner along with a request to renew the lease period beyond 10.10.2005 and the said demand drafts were also received

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and encashed by the 2nd respondent.

2. On receipt of a representation dated 20.2.2006 of the Petitioner, seeking for renewal of the lease period, the 2nd respondent admittedly informed that the request of the Petitioner for renewal of the lease period cannot be considered, since they decided to sell premises in dispute in an auction cum tender. It is also stated that a similar representation was sent to the 2nd respondent by the Petitioner, but no order has been passed by the 2nd respondent.

3. Admittedly, the lease or licence period beyond 10.10.2005 was not renewed. The argument of the learned counsel for the Petitioner that once the respondents received the amount of Rs.3,00,000/-, it should be deemed as a renewal for further period is untenable. It is well settled that a mere continuance in occupation of the demised premises after the expiry of the lease/license, notwithstanding the receipt of an amount would not create a tenancy or renewal of tenancy. For this preposition, it is relevant to refer to the decision of the Supreme Court rendered in the case of C. Albert Morris v. K. Chandrasekaran and others (2006-1-Law Weekly 521) wherein it was held thus:-

"28. Though the arguments of the learned senior counsel appearing for the appellant are attractive on the first blush yet on a careful consideration of the same, it has no merits. The judgments cited by the learned senior counsel appearing for the appellant are not only distinguishable on facts but also on law. Much argument was advanced on the receipt of the rent by the landlord after the cancellation of the lease. The consensus of judicial opinion in this Country is that a mere continuance in occupation of the demised premises after the expiry of the lease, notwithstanding the receipt of an amount by the quondam landlord would not create a tenancy so as to confer on the erstwhile tenant the status of a tenant or a right to be in possession."

4. Hence, in the light of the above said decision of the Supreme Court, continuous occupation or receipt of amount or licence fee after the expiry of the lease or licence period cannot be construed as 'renewal'. In this case, the lease period already expired as early as 10.10.2005 and hence, the Petitioner has no right to occupy the premises in dispute beyond that period i.e. beyond 10.10.2005. Hence, the 2nd respondent is right in issuing the notice dated 22.6.2006. Admittedly, the Petitioner herein has not challenged the said communication of the 2nd respondent, but only sought for the issuance of the Writ of Mandamus, directing the respondents not to dispossess the Petitioner.

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5.For the above stated reasons, this Writ Petition is liable to be dismissed and accordingly, it is dismissed at the admission stage itself. No costs. Consequently, the connected MP is closed.

Srcm

Sd/-
Assistant Registrar

/true copy/

Sub Assistant Registrar

To:

1.The Member Secretary, Chennai Metropolitan Development Authority, Gandhi Irwin Road, Egmore, Chennai-8

2.The Chief Executive Officer, Chennai Metropolitan Development Authority, Gandhi Irwin Road, Egmore, Chennai-8

3.The Chief Administrative Officer, Market Management Committee, Koyambedu Wholesale Market Complex
Koyambedu, Chennai

1 CC TO MR.J. RAVINDRAN, ADVOCATE SR NO 28899

1 CC TO MR.SU. SRINIVASAN, ADVOCATE SR NO 28547

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